THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.27000, 27328, 27330, 27331, 27332, 27333 & 27334 of 2005

COMMON ORDER:

In all these writ petitions, common questions of law and fact arise for consideration, therefore, they are being disposed of by this common order.

Before going into merits, it may be necessary to notice that these writ petitions forms part and parcel of a batch of Writ Petitions bearing Nos.25423 of 2005 and batch, which were disposed of by a common order dated 3.1.2006. However, on a mention being made by the learned counsel for respondents in these writ petitions that the respondents never engaged any Advocate in the batch of writ petitions which were disposed of and that their case stands on a different footing, this Court, after hearing the parties, by order dated 21.3.2007 recalled the common order dated 3.1.2006 insofar it relates to the present writ petitions.

It appears, the respondents were all working in Azam Jahi Mills Ltd., at Warangal and took voluntary retirement with effect from 4.7.1992 as per the scheme introduced and they were all paid the benefits under the said scheme. However, ten years thereafter, workmen filed a claim petition under Section

33-(C)(2) of the Industrial Disputes Act, 1947 before the Labour Court at Warangal stating that they have not been paid the benefits as per the voluntary retirement scheme dated 4.7.1992. The workmen gave particulars of each individual workman as to their date of entry into service, date of confirmation and total length of continuous service. For example, in case of one Saraiah, it was stated that his date of appointment was 1.12.1965 and date of retirement as 24.12.1992. According to him, he worked for 27 years, whereas the petitioner-management has calculated only 14 years of service, therefore, he is entitled for benefits for rest of the period as per the voluntary retirement scheme. To support his case, he marked Ex.W1, whereunder it was shown that the date of his entry into service was on

1.12.1965, date of confirmation was on 1.7.1977 and date of leaving was on 24.11.1992. Whereas, according to the management, the reasons for leaving was voluntary retirement and the service rendered by him permanently was 14 years only and that was taken into consideration and on the basis of which, all the benefits were paid to him. The workmen also signed the calculation made by the petitioner-management, but the Labour Court did not consider all these aspects in detail, except saying that;

> "For every workman four or five years service has been ignored on the ground that the workmen failed to render continuous service in one year. The respondent applied the definition of workman for computing the total period of service rendered by each workman. If the workman failed to work for 240 days in one year before their services for that year of service had been ignored. Apart from it, the respondent while computing 240 days failed to include Sundays, weekly offs, public holidays and leave availed by the workmen. But this is not permissible under law. When once the service of the workman was taken, the respondent is bound to take into consideration the date of first entry by the workman into the service. If this voluntary retirement scheme, assuming for a moment has not been introduced, the workmen will retire after attaining superannuation. For disturbing pensionary benefits or terminal benefits of the retired employee, the respondent would take the first date of entry of the workman into service and then it would compute the total period of service rendered by each workman. Hence I hold that the respondent is bound to take the first date of entry into service of the workmen. The respondent is not entitled to exclude Sundays, weekly offs, leave period, even though they were employed as casual or daily labour at the initial appointment. The respondent cannot exclude Sundays etc. May be, the workmen in those days may not earn wages for their absence, but for computing the continuous service though he was absent for certain days, the total period of service rendered by him from the date of inception of the service has to be taken into consideration for calculating the total service rendered by each workman".

From the above, it is clear that the individual cases were not considered as per the voluntary retirement scheme introduced on 4.7.1992.

Whether, the date of entry into service as Badili worker or as casual labour etc., should be taken into consideration for the purpose of calculation of benefits under voluntary retirement scheme, were not discussed nor any evidence was let in by both the parties. The Labour Court did not consider as to from which date the workmen are entitled for computation of their length of service for the purpose of benefits under voluntary retirement scheme. The Labour Court simply assumed something for itself and held that the computation made by the company is not permissible under law.

Under those circumstances, I am of the opinion that the conclusions reached by the Labour Court are contrary to the evidence on record and therefore, the impugned order passed by the Labour Court is liable to be set aside and accordingly set aside and the matters are remitted back to the Labour Court for fresh consideration and both the parties may lead evidence. The Labour Court shall decide the matters afresh after considering all the objections raised by the parties within a period of six months from the date of receipt of a copy of this order.

Accordingly, the writ petitions are allowed. No order as to costs.

_____

C.V.RAMULU, J

Date: 18.6.2007
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.27000, 27328, 27330, 27331, 27332, 27333 & 27334 of 2005

18.6.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.Nos.27000, 27328, 27330, 27331, 27332, 27333 & 27334 of 2005

Date: 18th June, 2007

Between:

The Chairman and Managing Director,
National Textile Corporation (APKK&M) Ltd.,

K.H. Road, Bangalore & another.

.. Petitioners in all the W.Ps.

And

Saraiah & others. … Respondents in W.P.No.27000/05

Late Ramanandham & others. … Respondents in W.P.No.27328/05

Balaiah and others. … Respondents in W.P.No.27330/05

Sammaiah and others. … Respondents in W.P.No.27331/05

Bhadraiah and others. … Respondents in W.P.No.27332/05

Kumaraswamy and others. … Respondents in W.P.No.27333/05

Komurelli and others. … Respondents in W.P.No.27334/05